

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CEA-01 CIAE-00 COME-00 EB-07

EA-07 FRB-03 INR-07 IO-11 NEA-10 NSAE-00 OPIC-03

SP-02 TRSE-00 CIEP-01 LAB-04 SIL-01 OMB-01 NSC-05

SS-15 STR-04 L-03 H-02 PA-01 PRS-01 USIA-06 /113 W

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R 141530Z JAN 76

FM USMISSION OECD PARIS

TO SECSTATE WASH DC 0090

INFO AMEMBASSY BERN

AMEMBASSY BONN

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LIMITED OFFICIAL USE SECTION 1 OF 2 OECD PARIS 1166

PASS EB/IFD/OMA FOR CUNDIFF; TREASURY FOR SYVRUD AND
JACKLIN

E.O. 11652: N/A

TAGS: EFIN, OECD

SUBJECT: PRELIMINARY GERMAN TEXT OF OECD SUPPORT FUND
AGREEMENT

REF: (A) STATE 281397, (B) OECD PARIS 30265

1. GERMAN DLEGATION TO OECD HAS SENT TO MISSION COMMENTS
(REPRESENTING COMBINED VIEWS OF GERMANY, AUSTRIA AND
SWITZERLAND) IN REPLY TO OBSERVATIONS MADE BY BOTH
U.S. (REFTEL A) AND U.K. ON PROVISIONAL GERMAN TEXT
OF AGREEMENT ESTABLISHING FINANCIAL SUPPORT FUND OF THE
OECD, WHICH PRELIMINARY TEXT WAS DATED NOVEMBER 7, 1975.
WHILE THESE GERMAN REPLIES WILL BE SENT IN A FEW DAYS
MORE FORMALLY THROUGH OECD SECRETARIAT, GERMAN DELEGATION
HAS ASKED US TO FORWARD THEM TO WASHINGTON IN ORDER
TO EXPEDITE FINAL APPROVAL OF GERMAN TEXT. ACCORDING
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TO GERMAN DELEGATION, IN ORDER TO MEET PLANNED SCHEDULE

FOR BUNDESTAD RATIFICATION OF SUPPORT FUND AGREEMENT,
FINAL GERMAN TEXT REQUIRED BY JANUARY 25.

2. ACTION REQUESTED: MISSION WOULD APPRECIATE
RECEIVING APPROVAL AND/OR ANY FURTHER COMMENTS BY U.S.
ON GERMAN TEXT NO LATER THAN JANUARY 23.

3. GERMAN REPLIES TO U.S. AND U.K. COMMENTS ON THE
GERMAN TEXT ARE AS FOLLOWS:

BEGIN TEXT

REPLY TO US COMMENTS ON THE GERMAN TEXT OF THE AGREEMENT
ESTABLISHING A FINANCIAL SUPPORT FUND OF THE ORGINI-
SATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

(A) ARTICLE V, SECTION 2(A)(I):

THE GERMAN TEXT CAN BE AMENDED TO READ AS FOLLOWS:
"DASS ES SICH IN ERNSTEN FINANZIELLEN AUSSENWIRT-
SCHAFTLICHEN SCHWIERIGKEITEN BEFINDET;"...

(B) ARTICLE V, SECTION 3(C)(I):

THE GERMAN TEXT CAN BE AMENDED TO READ AS
FOLLOWS: "(I) DIE FINANZIELLE AUSSENWIRTSCHAFTLICHE
LAGE DES MITGLIEDS,..."

(C) ARTICLE X, SECTION 3(C):

THE GENERAL SENSE OF THE GERMAN VERSION IS CORRECT
AND SHOULD THEREFORE NOT BE AMENDED.

(D) ARTICLE XIII, SECTION 4(A):

THE GERMAN TEXT IS NOT MISLEADING BUT FOR THE SAKE
OF CLARITY THE WORDS (GEGENUBER DEM FONDS" CAN BE
INSERTED AFTER THE WORD "ZAHLUNGSVERPFLICHTUNG".

(E) ARTICLE XVII, SECTION 2:

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THE TERM "VOR CERICHT STEHEN" AS THE GERMAN RENDER-
ING OF THE ENGLISH "IINSTITUTE LEGAL PROCEEDINGS"
AND THE FRENCH "ESTER EN JUSTICE" WAS AGREED YEARS
AGO WITH THE COMPETENT SECTIONS IN THE FEDERAL
FOREIGN OFFICE AND OF THE FEDERAL MINISTRY OF
JUSTICE AND HAS SINCE BEEN USED IN THE GERMAN
VERSIONS OF INTERNAIONAL AGREEMENTS, FOR INSTANCE
THE AGREEMENT ESTABLISHING THE AFRICAN DEVELOPMENT

FUND, ARTICLE 42 OF WHICH READS: "THE FUND SHALL
POSSESS FULL JURIDICAL PERSONALITY AND, IN
PARTICULAR, FULL CAPACITYCMMM

(III) TO INSTITUTE LEGAL PROCEEDINGS" (FRENCH:
"D'ESTER EN JUSTICE").

HERE, TOO, THIS TERM HAS BEEN RENDERED BY "VOR
GERICHT STEHEN".

1. IN CONTRAST TO USAGE IN THE DRAFTING OF ENGLISH
AND FRENCH TEXTS, IT IS NOT USUAL IN GERMAN LAWS AND IN
THE GERMAN VERSIONS OF AGREEMENTS TO REFER WHEN QUOTING
SUB-PARAGRAPHS, PARAGRAPHS, SECTIONS OR ARTICLES, TO
THE NEXT HIGHEST DIVISION IF THE PRESENT ARTICLE,
AGREEMENT, ETC., IS MEANT. ONLY WHERE A DIFFERENT
ARTICLE OF THE SAME AGREEMENT IS MENTIONED MUST THE
GERMAN TXT READ, FORIINSTANCE, "BUCHSTABE A DES
VORLIEGENDEN ARTIKELS" IN ORDER TO RULE OUT CONFUSION.
A TYPICAL EXAMPLE OF THIS IS THE "AGREEMENT ON AN
INTERNATIONAL ENERGY PROGRAM" AND MORE DETAILED GUIDE-
LINES ARE CONTAINED IN "STANDARDFORMULIERUNGEN FUR
DEUTSCHE VERTRAGSTEXTE", PP. 58 AND 79.

2. THE FINAL CLAUSES ARE AN INTEGRAL PART OF THE
AGREEMENT AND ARE ALSO CONTAINED IN THE PRINTED
VERSION OF THE OECD TEXT.
END TEXT

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BEGIN TEXT

REPLY TO THE BRITISH COMMENTS ON THE GERMAN VERSION OF
THE AGREEMENT ESTABLISHING A FINANCIAL SUPPORT FUND OF
THE ORGANIZATION FOR ECONOMIC CO-OPERATION AND
DEVELOPMENT.

1. THE TABLE OF CONTENTS HAS NOT BEEN TRANSLATED
BECAUSE THE PRINTED VERSION OF THE OECD TEXT DOES NOT
CONTAIN ONE.

2. ARTICLE V, SECTION 2(B), THIRD LINE, AND ARTICLE
VI, SECTION 1(B)(I), FIRST LINE:

THE GERMAN TEXT IS IN BOTH CASES A CORRECT RENDERING
OF THE ENGLISH AND CORRESPONDS TO SIMILAR PHRASEOLOGY
IN GERMAN LAWS AND AGREEMENTS.

3. ARTICLE VIII, SECTION 3(B), TENTH LINE AND
ARTICLE XII, SECTION 1, SECOND LINE:
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THE GERMAN TEXT CORRESPONDS TO THE ENGLISH IN BOTH
CASES EVEN THOUGH DIFFERENT TERMS ARE USED - IN THE
FRENCH, TOO, INCIDENTIALLY.

4. ARTICLE XIII, SECTION 4(B), THIRD AND FOURTH LINES:

THE PROPOSED MODIFICATION "DIE SIE ... SONST HATTEN
ERHALTEN SOLLEN" IS ACCEPTED.

5. ARTICLE XIII, SECTION (5(A), SEVENTH LINE AND (B)
SIXTH LINE:

THE PHRASE "BIS ZUR HOHE" (OF THE AMOUNT/QUOTA) IS
FREQUENTLY USED IN GERMAN AND CORRECTLY RENDERS THE
MEANING OF THE ENGLISH PROVISIONS. A MORE LITERAL
RENDERING OF THE ENGLISH WOULD PRODUCE A GERMAN
PHRASE NOT GENERALLY TO BE FOUND IN GERMAN LAWS AND
AGREEMENTS.

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